

CHAPTER NO. 299**SENATE BILL NO. 61****By Haynes****Substituted for: House Bill No. 406****By Briley, Coleman, Brenda Turner, Patton**

AN ACT to amend Tennessee Code Annotated, Section 55-9-602, relative to child safety belts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-9-602, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)(1) Any person transporting any child, under one (1) year of age, or any child, weighing twenty (20) pounds or less, in a motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Notwithstanding the provisions of § 55-9-603, any person transporting any child, one (1) through three (3) years of age weighing greater than twenty (20) pounds, in a motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a child passenger restraint system in a forward-facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Notwithstanding the provisions of § 55-9-603, any person transporting any child, four (4) through eight (8) years of age and measuring less than five feet (5') in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4) (A) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection, a specially modified, professionally manufactured restraint system meeting the intent of this subsection shall be in use; provided that the provisions of this subdivision shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(B) A person shall not be charged with a violation of this subsection if such person presents a copy of the physician's prescription in compliance with the provisions of this subdivision to the arresting officer at the time of the alleged violation.

(C) A person charged with a violation of this section may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating the provisions of this section may be dismissed.

SECTION 2. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) (A) Notwithstanding the provisions of § 55-9-603, any person transporting any child, nine (9) through twelve (12) years of age, or any child through twelve (12) years of age, measuring five feet (5') or more in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(B) Notwithstanding the provisions of § 55-9-603, any person transporting any child, thirteen (13) through fifteen (15) years of age, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

SECTION 3. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) A person charged with a violation of this subsection may, in lieu of appearance in court, submit a fine of fifty dollars (\$50.00) to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed.

SECTION 4. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (4)(A) in its entirety and by substituting instead the following:

(4) (A) Notwithstanding any provision of subsection (f) to the contrary, the revenue generated by ten dollars (\$10.00) of the fifty dollar (\$50.00) fine under subdivision (g)(2) for a person's first conviction under this subsection, shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty dollars (\$40.00) of such fifty dollar (\$50.00) fine for a person's first conviction under this subsection shall be deposited to the child safety fund in accordance with subsection (f).

SECTION 5. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (5) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 55-9-602(g), is amended by adding the following language to the end of subdivision (6):

If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring that the provisions of this subsection are complied with. If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with this subsection.

SECTION 7. Tennessee Code Annotated, Section 55-9-602, is amended by adding the following language as new, appropriately designated subsections:

(h) As used in this section, unless specified otherwise, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

(i) A person who has successfully met the minimum required training standards for installation of child restraint devices established by the national highway traffic safety administration of the United States Department of Transportation, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related to such installation or inspection unless such act or omission was the result of the person's gross negligence or willful misconduct.

(j) Notwithstanding any provisions of this part to the contrary, for any child transported by child care agencies licensed by the Department of Human Services pursuant to §§ 71-3-501 et seq. and transported pursuant to the rules and regulations of such department, such rules and regulations shall remain effective until the department amends such rules and regulations; provided that the department shall either promulgate rules consistent with the provisions of this part or promulgate rules exceeding, based on applicable federal regulations or standards, the provisions of this part no later than January 1, 2007.

SECTION 8. Tennessee Code Annotated, Section 55-9-602(f), is amended by deleting subdivision (7) in its entirety and by substituting instead the following:

(7) The Department of Health is authorized, pursuant to duly promulgated rules and regulations, to determine equitable distribution of the moneys in the fund to those entities that are best suited for child passenger safety system distribution. Funds distributed pursuant to the provisions of this section shall only be used for the purchase of child passenger safety systems to be loaned or given to the parent or guardian.

SECTION 9. Tennessee Code Annotated, Section 55-9-602, is amended by adding the following language as a new, appropriately designated subsection:

(_) (1) The failure to use a child restraint system shall not be admissible into evidence in a civil action; provided, that evidence of a failure to use a child restraint system, as required by this section, may be admitted in a civil action as to the causal relationship between non-compliance and the injuries alleged, if the following conditions have been satisfied:

(A) The plaintiff has filed a products liability claim;

(B) The defendant alleging non-compliance with this section shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure; and

(C) Each defendant seeking to offer evidence alleging non-compliance with this section has the burden of proving non-compliance with this section, that compliance with this section would have reduced injuries and the extent of the reduction of such injuries.

(2) Upon request of any party, the trial judge shall hold a hearing out of the presence of the jury as to the admissibility of such evidence in accordance with the provisions of this subsection and the Tennessee Rules of Evidence.

SECTION 10. This act shall take effect July 1, 2004, the public welfare requiring it.

PASSED: May 27, 2003


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of June 2003


PHIL BREDESEN, GOVERNOR